



The Commonwealth of Massachusetts

JOINT COMMITTEE ON TELECOMMUNICATIONS, UTILITIES AND ENERGY

STATE HOUSE

BOSTON, MA 02133-1053

MICHAEL W. MORRISSEY
SENATE CHAIRMAN

BARRY R. FINEGOLD
HOUSE CHAIRMAN

July 14, 2010

Mr. Philip Giudice – Commissioner
Department of Energy Resources
100 Cambridge St., Suite 1020
Boston, MA 02114

RE: REPORT OF THE COMMITTEE ON PROPOSED FINAL SOLAR CARVE-OUT REGULATIONS (225 CMR 14.00)

Dear Commissioner Giudice:

First, we would like to take this opportunity to express our appreciation to you and your dedicated staff for your work thus far implementing the Green Communities Act of 2008. We applaud your continued dedication to the promotion and development of renewable and alternative energy resources. Pursuant to Section 12 of Chapter 25A of the General Laws, the Joint Committee on Telecommunications, Utilities and Energy has reviewed the proposed final regulations implementing the RPS Solar Carve-Out.

While the Committee shares your belief that these proposed regulations will provide significant assistance to the Commonwealth in meeting its renewable and alternative energy goals and making it a leader in solar energy, we respectfully bring to your attention several issues the Committee has encountered during its investigation.

A. MAXIMUM CAPACITY CAP OF 2MW

Concerns have been brought to the Committee's attention regarding the maximum capacity of a Unit being limited to 2 MW on a single contiguous parcel of land. During the development of the Emergency Regulations, it seems that a number of developers began investment in and development of several multiple megawatt solar projects based on the language in the Emergency Regulations which defined maximum eligible project capacity based on 2 MW per meter.

After hearing these concerns from a number of developers, the Legislature has taken steps towards amending subsection (g) of section 11F of chapter 25A of the General Laws to raise the project capacity to 6 MW. Accordingly, if the Legislature successfully amends the

above referenced section, we respectfully request that DOER alter its regulations to reflect the increased project capacity cap.

B. EXEMPTION FROM MAXIMUM CAPACITY CAP FOR PROJECTS ON BROWNFIELDS, LANDFILLS, AND OTHER CONTAMINATED PROPERTIES

The Committee recognizes the benefits of dedicating landfills and Brownfields to renewable power generation. Given these benefits, we respectfully request that DOER add a limited exception to the maximum capacity cap for solar energy projects located on: (1) contaminated land subject to jurisdiction by the federal Environmental Protection Agency or by the Massachusetts Department of Environmental Protection; (2) a municipally or privately owned landfill; and (3) land of marginal use based on development history revealing no reasonably likelihood of future development for alternative commercial, industrial, recreational, or residential uses. However, the Committee is mindful that such an exception may be outside of DOER's regulatory power and that a legislative solution for this issue may be necessary.

C. FLOOR VALUE FOR SRECS

The Committee has heard concerns from developers that there is a strong perception within the financial community that the Clearinghouse system, as currently constructed, may fail to create a floor for SREC values due to the potential that the Opt-In Auction would not clear after three auctions. This could occur when supply of SRECs is high and retail electricity suppliers are not motivated to buy SRECs at \$300/MWh regardless of a three year shelf-life extension or related increases in the compliance obligation. The Committee is concerned about the impact this uncertainty could have on the ability for projects to obtain financing.

In order to provide better assurance to financiers, we respectfully request that DOER re-evaluate whether Clearinghouse system adequately sets a floor for SREC values.

D. CLARIFICATION OF OPT-IN TERM APPLICABILITY PERIOD

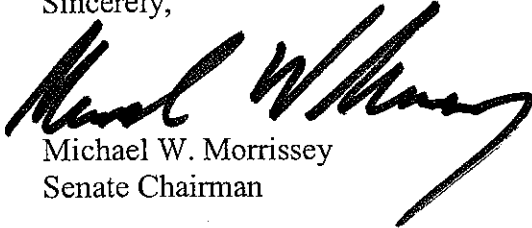
The Committee has heard concerns that the language surrounding the announcement of the Opt-In Term is not entirely clear with regard to what period the Opt-In announcement applies. For example, because there is no Clearinghouse in 2010, it seems that there will not be a change to the Opt-In Term until July 20, 2011 and that projects that receive a statement of qualification in 2011 prior to the announcement of the new Opt-In Term will qualify for the full 40 quarters, and that any changes that occur on July 20, 2011 are not retroactive.

In order to provide clarification, we respectfully request that DOER add language to section 14.06(3)(e) confirming that any change to the Opt-In Term announced on July 20th each year applies prospectively from that date.

CONCLUSION

Thank you for taking the time to consider and address the Committee's concerns through explanation, re-evaluation or revision of the proposed final regulations. Again, we would like to applaud the work of you and your staff in implementing this and many other important provisions of the Green Communities Act.

Sincerely,



Michael W. Morrissey
Senate Chairman



Barry R. Finegold
House Chairman